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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/761,495	01/21/2004	Sidney J. Bertucci	85498SMR	4366

7590 08/24/2006

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Rochester, NY 14650-2201

EXAMINER
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LETSCHER, GERALDINE

ART UNIT	PAPER NUMBER
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1752

DATE MAILED: 08/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/761,495

Applicant(s)

BERTUCCI ET AL.

Examiner

Geraldine V. Letscher

Art Unit

1752

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 09 June 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-46 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-46 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
- Paper No(s)/Mail Date \_\_\_\_\_.

- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

This office action is responsive to the Remarks/Arguments filed June 9, 2006.

Claims 1-46 are pending and presently under consideration.

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yarmey et al. (U.S. Patent No. 5,972,591), for the reason of record.

Yarmey et al. discloses a color photographic element and corresponding method of processing a the same comprising developing the silver halide element with a color developer, and then bleaching and fixing or bleach/fixing the silver halide element, said photographic element characterized by comprising gelatin, a support bearing at least one dye image forming unit selected from a dye image forming unit comprising at least one red sensitive silver halide emulsion layer having associated therewith a dye-forming coupler, a dye image forming unit comprising at least one green sensitive silver halide emulsion layer having associated therewith a dye-forming coupler, and a dye image forming unit comprising at least one blue sensitive silver halide emulsion layer having associated therewith a dye-forming coupler; and a polymer inclusive of the instant Formula P-1 (see abstract).

It would have been obvious to one of ordinary skill in the requisite art at the time the invention was made to utilize a polymer that falls within the structural formula disclosed in Yarmey et al. which meets the molecular weight requirement of the instant invention, with reasonable expectations of achieving, absent object evidence to the contrary, the advantages taught therein.

### ***Response to Arguments***

3. Applicant's arguments filed June 9, 2006 have been fully considered but they are not persuasive.

Applicants' concede that the polymer taught in the prior art of record, i.e., Yarmey et al. ('591), is within the scope of the present claimed formula, but argue that the polymers described in said prior art of record do not meet the molecular weight requirement of the present invention. Applicants refer to the experimental results herein the specification as evidence to illustrate the photographic advantages achieved with the inventive color photographic element containing a polymer inclusive of the instant Formula P-1 AND having an average molecular weight of less than 300,000; specifically, applicants refer to Table 1 and Example 1. The Examiner respectfully disagrees with such an assertion. Since the molecular weight of the comparative polymer is not defined herein the specification, the impact cannot be ascertained, nor a proper comparison made. On page 32, lines 18-22, herein the specification the comparative samples are noted as containing "a high molecular weight version of polymer P-1", yet what is meant by "high molecular weight version" is not defined. In

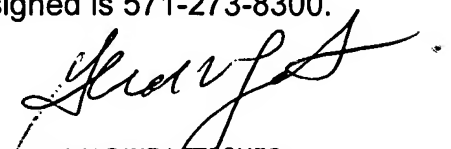
reviewing the layer contents of the "Comparative Film Sample 101" on pages 32-34 of the present specification, no further information regarding the molecular weight of the comparative "high molecular weight version of polymer P-1" is provided; it simply appears as "polymer P-1 (outside invention)".

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Geraldine V. Letscher whose telephone number is (571) 272-1334. The examiner can normally be reached 8:00am to 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cynthia Kelly can be reached on (571) 272-1526. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

  
GERALDINE LETSCHER  
PRIMARY EXAMINER  
GROUP 1100

Art Unit: 1752

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.